

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BLUE SPIKE, LLC,

Plaintiff

V.

AUDIBLE MAGIC CORPORATION

Defendant

AUDIBLE MAGIC CORPORATION,

Counterclaim Plaintiff

V.

BLUE SPIKE, LLC, BLUE SPIKE, INC.
and SCOTT A. MOSKOWITZ

Counterclaim Defendants

Civil Action No. 6:15-CV-00584-RWS-CMC

**DECLARATION OF JOHANNA L. JACOB IN SUPPORT OF
AUDIBLE MAGIC CORPORATION'S MOTION FOR
SUMMARY JUDGMENT OF NONINFRINGEMENT**

FILED UNDER SEAL

I, Johanna Jacob, declare under penalty of perjury that the following is true and correct:

1. I am an attorney at the law firm Orrick, Herrington & Sutcliffe, LLP, counsel of record for defendant Audible Magic Corp. (“Audible Magic”). I have personal knowledge of the facts set forth in this declaration, or access to information and records allowing me to confirm these facts. If called as a witness, I could testify competently to these facts under oath.

2. Attached hereto as **Exhibit A** is a true and correct excerpt from the transcripts of Scott Moskowitz’s deposition which occurred December 9-11, 2014 and January 14-16, 2015.

3. Attached hereto as **Exhibit B** is a true and correct copy of Fed. R. Civ. P. 30, including Notes of Advisory Committee on Rules, 1970 Amendment.

4. Attached hereto as **Exhibit C** is a true and correct excerpt from the transcript of Ahmed H. Tewfik, Ph.D. which occurred on June 15, 2015.

I declare under penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct based on my own personal knowledge.

Executed on June 22, 2015 in San Francisco, CA.



Johanna L. Jacob